

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

GEORGE AVALOS,

Plaintiff,

v.

EAST AFRICAN HUMANITARIAN
ORGANIZATION PROPERTIES, INC.,

Defendant.

Case No. 1:20-cv-001605-DAD-SAB

ORDER DISCHARGING ORDER TO
SHOW CAUSE AND DIRECTING CLERK
OF THE COURT TO ADJUST THE
DOCKET TO REFLECT VOLUNTARY
DISMISSAL PURSUANT TO RULE 41(a)
OF THE FEDERAL RULES OF CIVIL
PROCEDURE

(ECF Nos. 6, 7, 8)

On November 12, 2020, Plaintiff George Avalos filed this action against Defendant East African Humanitarian Organization Properties, Inc. On January 27, 2021, due to the upcoming scheduling conference on February 11, 2021, Plaintiff was ordered to file a notice of status of service on the defendant within five days. Plaintiff did not comply with the January 27, 2021 order. On February 4, 2021, an order was filed requiring Plaintiff to show cause why sanctions should not issue for the failure to comply. On this same date, Plaintiff filed a notice of voluntary dismissal pursuant to Rule 41(a)(1) of the Federal Rules of Civil Procedure and a response to the order to show cause. The Court has reviewed the response to the order to show cause and the order shall be discharged.

“[U]nder Rule 41(a)(1)(A)(i), ‘a plaintiff has an absolute right to voluntarily dismiss his action prior to service by the defendant of an answer or a motion for summary judgment.’ ”

1 Commercial Space Mgmt. Co., Inc. v. Boeing Co., Inc., 193 F.3d 1074, 1077 (9th Cir. 1999)
2 (quoting Wilson v. City of San Jose, 111 F.3d 688, 692 (9th Cir. 1997)). The Ninth Circuit has
3 held that Rule 41(a) allows a plaintiff to dismiss without a court order any defendant who has yet
4 to serve an answer or motion for summary judgment. Pedrina v. Chun, 987 F.2d 608, 609 (9th
5 Cir. 1993). “[A] dismissal under Rule 41(a)(1) is effective on filing, no court order is required,
6 the parties are left as though no action had been brought, the defendant can’t complain, and the
7 district court lacks jurisdiction to do anything about it.” Commercial Space Mgmt. Co., Inc., 193
8 F.3d at 1078. In this action, no defendant has filed an answer or other responsive pleading.

9 Accordingly, IT IS HEREBY ORDERED that:

- 10 1. The order to show cause, filed on February 4, 2021, is DISCHARGED;
- 11 2. All pending dates and matters are VACATED; and
- 12 3. The Clerk of the Court is DIRECTED to CLOSE the file in this case and adjust
13 the docket to reflect voluntary dismissal of this action pursuant to Rule 41(a).

14
15 IT IS SO ORDERED.

16 Dated: February 5, 2021


UNITED STATES MAGISTRATE JUDGE